

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION**

SUBURBAN EMERGENCY
MEDICAL SERVICES, INC.

Employer

and

MELANIE S. SNYDER

Case 4–RD–2053

Petitioner

and

DISTRICT 1199P, SERVICE EMPLOYEES
INTERNATIONAL UNION

Union Involved

**REGIONAL DIRECTOR’S DECISION AND
DIRECTION OF ELECTION**

The Employer, Suburban Emergency Medical Services, is a provider of life support and ambulance services from two Pennsylvania facilities. The Union Involved, District 1199P, SEIU, currently represents a unit of the Employer’s Paramedics, Emergency Medical Technicians, Health Professionals, Dispatchers, and Paratransit Operators. The Petitioner, Melanie S. Snyder, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to decertify the Union Involved as the representative of this unit.

On December 12, 2005, a Hearing Officer of the Board conducted a hearing, which was attended by the Employer and the Petitioner, but not by the Union Involved.¹ Thereafter, pursuant to an Order Reopening Hearing and Notice of Hearing dated December 16, the Hearing Officer conducted another day of hearing on December 23 for the purpose of taking additional evidence as

¹ The Union Involved was served with the petition in this case by first-class mail at its main office in Harrisburg, Pennsylvania. Additionally, the petition was faxed to the Union Involved on the date it was filed. The Board Agent assigned to this case left a telephone message for the Union Involved’s Organizer, but the Organizer did not respond to this message.

to whether the Employer is engaged in commerce within the meaning of the Act. Once again, the Employer and the Petitioner, but not the Union Involved, attended the hearing.² No party filed a brief. Thereafter, I considered the evidence, and as discussed below I have concluded that an election should be conducted in the existing unit.

I. BACKGROUND

The Employer and the Union Involved have had a bargaining relationship since 1989, and they most recently entered into a collective-bargaining agreement with a term of February 2, 2003 through February 1, 2007. The collective-bargaining agreement initially covered the Employer's employees solely at its Palmer Township facility, which is located in Easton, Pennsylvania. On August 28, 2003, the Employer and the Union Involved executed a Memorandum of Agreement extending the coverage of the collective-bargaining agreement to the Employer's newly-acquired facility in Stroudsburg, Monroe County, Pennsylvania, which is located about 30 miles from the Palmer Township facility.

II. JURISDICTION

The Employer employs about 75 to 80 employees at its two facilities, and its gross annual revenues are about \$2,000,000 to \$2,500,000. The Employer derives its revenues from providing services to various hospitals and nursing homes. During the past year, the Employer earned more than \$107,000 from Lehigh Valley Health Network, \$90,000 to \$100,000 from Easton Hospital, about \$83,000 from Stroud Manor Nursing Home, \$40,000 to \$50,000 from Good Shepard Home, and about \$20,000 from Manor Care of Easton. The Employer also receives payments from insurance companies.

The Employer has nine ambulances, four wheelchair vans, and a response vehicle. During the past year, the Employer purchased two ambulances from Pfund Superior Sales Co., a Pennsylvania company which in turn purchased them from Medtec Ambulance Corporation in Goshen, Indiana. The Employer spent more than \$50,000 on each of these vehicles. The Employer also spent about \$31,000 for maintenance services on defibrillators and heart monitors provided by Medtronics, a Washington company, \$20,000 for small supplies from Matrix, and \$5,000 for the maintenance of litters by Stryker. Matrix and Stryker are both New Jersey companies. The Employer admits that it is in commerce.

As the Employer has, during the past year, purchased products and services valued at more than \$50,000 directly from companies located outside of the Commonwealth of Pennsylvania, and has purchased ambulances from a Pennsylvania company which in turn purchased them from an Indiana manufacturer, I find that the Employer is engaged in commerce within the meaning of the Act.

² The Union Involved was served with the December 16 Order Reopening Record and Notice of Hearing.

III. LABOR ORGANIZATION STATUS

According to its website, the Union Involved is the largest healthcare employee union in Pennsylvania, representing about 20,000 employees at various nursing homes, acute-care hospitals, and other healthcare institutions. The Employer has a contract with the Union Involved setting forth employee terms and conditions of employment and deals with its representatives on bargaining and contract administration matters. The Board has previously found that the Union Involved is a labor organization within the meaning of the Act, and I make the same finding in this case. *Beverly Health and Rehabilitation Services, Inc.*, 332 NLRB 347 (2000), *enfd.* 297 F.3rd 468 (6th Cir. 2002); *Beverly Health and Rehabilitation Services, Inc.*, 331 NLRB 960 (2000).³

IV. THE APPROPRIATE BARGAINING UNIT

The collective-bargaining agreement states that the Employer recognizes the Union Involved as the representative of “all full-time and regular part-time, paramedics, emergency medical technicians (EMTs), health professionals, dispatchers and paratransit operators who work five hundred (500) or more hours in a calendar year” at the Palmer Township facility, excluding “all other employees, including unpaid volunteers, confidential secretaries, office assistants, bookkeepers, maintenance employees, lead dispatcher, guards and supervisors as defined in the Act.” As discussed above, in the Memorandum of Agreement, the Employer and the Union Involved agreed to extend the coverage of the collective bargaining agreement to the Monroe County facility.⁴

There are about 54 employees at the Palmer Township facility and 20 to 25 employees at the Monroe County facility. While each employee is assigned to one of the two facilities, they may temporarily transfer between facilities to work overtime or when one facility is short-staffed. Employees at the two facilities are jointly managed and commonly dispatched.

³ Those cases issued before the SEIU withdrew from the AFL-CIO.

⁴ Specifically, the Memorandum of Agreement stated:

This Agreement is an addendum to the parties’ COLLECTIVE BARGAINING AGREEMENT and provides for the inclusion of the MONROE DIVISION into the current PALMER DIVISION bargaining unit and for extending the coverage of the COLLECTIVE BARGAINING AGREEMENT to the MONROE DIVISION. The COLLECTIVE BARGAINING AGREEMENT will apply in full force to the MONROE DIVISION except to the extent modified by the following mutually agreed upon provisions.

The Memorandum modified the terms of the collective-bargaining agreement in various respects as it applies to the Monroe County facility employees’ terms and conditions of employment.

The bargaining unit in which a decertification election is held must be coextensive with the existing certified or recognized unit. *Campbell Soup Co.*, 111 NLRB 234 (1955). As the Employer recognizes a unit consisting of employees at both the Palmer Township and Monroe County facilities, I find that the unit set forth in the collective-bargaining agreement, as modified by the 2003 Memorandum of Agreement, is the appropriate unit for this decertification election.

V. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and for the reasons set forth above, I conclude and find as follows:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Union Involved is a labor organization within the meaning of the Act.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Paramedics, Emergency Medical Technicians (EMTs), Health Professionals, Dispatchers, and Paratransit Operators who work five hundred (500) or more hours in a calendar year at the Employer's Palmer Township and Monroe County, Pennsylvania facilities, **excluding** all other employees, including unpaid volunteers, confidential secretaries, office assistants, bookkeepers, maintenance employees, Lead Dispatcher, guards, and supervisors as defined in the Act.

VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for the purposes of collective bargaining by **District 1199P, Service Employees International Union**. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

A. Eligible Voters

The eligible voters shall be unit employees employed during the designated payroll period for eligibility, including employees who did not work during that period because they were ill, on vacation, or were temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, employees engaged in an economic strike, which commenced less than 12 months before the election date, who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Employees who are otherwise eligible but who are in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are: 1) employees who have quit or been discharged for cause after the designated payroll period for eligibility; 2) employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date; and 3) employees engaged in an economic strike which began more than 12 months before the election date who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the **full** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106 on or before **January 13, 2006**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (215) 597-7658, or by e-mail to Region4@NLRB.gov.⁵ Since the list will be made available to all parties

⁵ See OM 05-30, dated January 12, 2005, for a detailed explanation of requirements which must be met when electronically submitting representation case documents to the Board, or to a Region's electronic mailbox. OM 05-30 is available on the Agency's website at www.nlr.gov.

to the election, please furnish a total of two (2) copies, unless the list is submitted by facsimile or e-mail, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of three (3) working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least five (5) working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

VII. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. A request for review may also be submitted by e-mail. For details on how to file a request for review by e-mail, see <http://gpea.NLRB.gov/>. This request must be received by the Board in Washington by 5:00 p.m., EST on **January 20, 2006**.

Signed: January 6, 2006

at Philadelphia, Pennsylvania

/s/ [Dorothy L. Moore-Duncan]

DOROTHY L. MOORE-DUNCAN
Regional Director, Region Four